

Part 5

Unlawful and Unprofessional Conduct - Penalties

58-9-501 Unlawful conduct.

"Unlawful conduct" includes:

- (1) doing any of the following to prepare a dead human body for disposition unless licensed as a funeral service director or a funeral service intern:
 - (a) embalming;
 - (b) calcinating;
 - (c) pulverizing;
 - (d) cremating; or
 - (e) using any method that invades a dead human body;
- (2) using the title "funeral service director," "funeral service intern," "preneed funeral service sales agent," or "funeral service establishment" unless licensed under this chapter;
- (3) engaging in, providing, or agreeing to provide funeral arrangements to be provided under a preneed funeral arrangement without first obtaining a license as a funeral service establishment under this chapter;
- (4) engaging in selling, representing for sale, or in any other way offering to sell any contract under which preneed funeral arrangements are to be provided without first obtaining a license under this chapter as:
 - (a) a preneed funeral arrangement sales agent; or
 - (b) a funeral service director; and
- (5) failing to comply with Section 58-9-702.

Amended by Chapter 144, 2007 General Session

58-9-502 Unprofessional conduct.

- (1) "Unprofessional conduct" includes:
 - (a) the failure of a funeral service director to accurately document, report, and supervise the activities of a funeral service intern;
 - (b) knowingly soliciting the sale of any funeral service or funeral merchandise for a person whose death occurred or was imminent prior to the solicitation;
 - (c) paying or offering to pay a commission or anything of value to secure deceased human remains for a funeral service or disposition to:
 - (i) medical personnel;
 - (ii) a nursing home;
 - (iii) a nursing home employee;
 - (iv) a hospice;
 - (v) a hospice employee;
 - (vi) clergy;
 - (vii) a government official; or
 - (viii) any other third party; and
 - (d) failure to provide the following current information to the division:
 - (i) a licensee's business address;
 - (ii) a licensee's primary residence;
 - (iii) a funeral service establishment's funeral service director; or
 - (iv) a supervising funeral service director's funeral service intern's name.

- (2) "Unprofessional conduct" does not include:
- (a) general advertising directed to the public at large; or
 - (b) responding to a notification of death from:
 - (i) medical personnel;
 - (ii) a nursing home;
 - (iii) a nursing home employee;
 - (iv) a hospice;
 - (v) a hospice employee;
 - (vi) clergy;
 - (vii) a government official; or
 - (viii) any authorized representative of the family of the deceased person.

Amended by Chapter 144, 2007 General Session

58-9-503 Penalty for unlawful conduct.

- (1) A person who violates the unlawful conduct provisions defined in Subsections 58-9-501(1) through (4) is guilty of a class A misdemeanor.
- (2) A person who violates the unlawful conduct provision defined in Subsection 58-9-501(5) may be prosecuted under Title 76, Chapter 6, Part 4, Theft.

Amended by Chapter 144, 2007 General Session

58-9-504 Authority to promulgate rules.

In addition to the authority granted under Section 58-1-106, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division in collaboration with the board shall establish by rule:

- (1) the minimum requirements for a licensed funeral establishment for the following:
 - (a) physical facilities;
 - (b) equipment;
 - (c) instruments; and
 - (d) supplies;
- (2) license cycles under Section 58-9-303;
- (3) standards to protect the interests of buyers and potential buyers of preneed funeral arrangements under Section 58-9-701; and
- (4) standards for preneed funeral arrangement trusts.

Amended by Chapter 382, 2008 General Session

58-9-505 Disclosure requirements.

A licensee under this chapter shall disclose information in accordance with regulations of the Federal Trade Commission and rules adopted by the division pursuant to this chapter.

Enacted by Chapter 49, 2003 General Session

58-9-506 Inspection -- Right to access.

A licensed funeral service establishment is subject to inspection during normal business hours to determine compliance with the laws of Utah by:

- (1) any authorized representative of the division; or

(2) any authorized representative of a local or state health department.

Enacted by Chapter 49, 2003 General Session